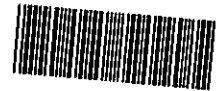




Commonwealth of Massachusetts
Executive Office of Environmental Affairs

**Department of
Environmental Protection**
Metro Boston/Northeast Regional Office



SEMS DocID

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William F. Weld
Governor

Trudy S. Cox
Secretary, EOE

Thomas B. Powers
Acting Commissioner

AUG 16 1994

URGENT LEGAL MATTER: PROMPT ACTION NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Ms. Patricia Auterio
5 Marshall Road
Stoneham, MA 02180

RE: MIDDLETON
Adhesive Manufacturer
School Street
Release Tracking No. 3-0168

NOTICE OF RESPONSIBILITY;
REQUEST FOR IRA PLAN;
DESIGNATION OF INTERIM DEADLINES
M.G.L. c. 21E & 310 CMR 40.0000

Dear Ms. Auterio:

On December 29, 1986, the Department of Environmental Quality Engineering, now the Department of Environmental Protection (the Department), issued American Glue & Resin, Inc. (American Glue), located at 40 School Street, Middleton, a Notice of Responsibility (NOR) pursuant to M.G.L. Chapter 21E, for a condition of groundwater contamination by volatile organic compounds (VOCs). This contamination was confirmed through laboratory analysis of water samples collected from an on-site private water supply well and from private water supply wells located on neighboring properties, which revealed concentrations of 1,1-dichloroethane, 1,2-dichloroethylene, trichloroethylene, benzene, toluene, chlorobenzene, ethylbenzene, xylenes, 1,1,1-trichloroethane, and other hydrocarbons. Several of the compounds detected in these private water supply wells, notably benzene, trichloroethylene, 1,1-dichloroethane, and 1,2-dichloroethylene, were in concentrations in excess of drinking water standards.

In response to the Department's NOR, American Glue engaged consultants to conduct environmental assessments of the subject site. Assessment activities included, in brief: background research of site history, an inventory of oil and hazardous materials used at the site, installation of groundwater monitoring wells, collection of soil and groundwater samples, soil gas survey, fracture trace analysis, and an evaluation of the bedrock aquifer. In addition, two underground storage tanks (USTs), one 1,000-gallon gasoline UST and one 3,000-gallon toluene UST, were removed from the site. Response actions were documented in the following reports submitted to the Department: "American Glue & Resin Co., Phase I" by Environmental Compliance Services, Inc. (ECS), received by the Department on February 13, 1987; "American Glue and Resin Company, Phase II, Data Summary" by ECS, dated

October 1987; "Phase II Interpretive Report, American Glue and Resin Site, Middleton, Massachusetts" by Liberty Environmental Systems, Inc. (Liberty), dated October 1987; "American Glue & Resin Company, Supplementary Investigation" by David Elliot Kronenberg, dated September 28, 1987; and "Additional Phase II Investigations, Soil Gas Survey and Bedrock Aquifer Evaluation, American Glue and Resin, Inc., Middleton, Massachusetts" by Liberty, dated September 1988.

Records available to the Department indicate that you are the current owner of the property. The purpose of this notice is to inform you of your legal responsibilities under state law and to provide you with an Interim Deadline for assessing and/or remediating the subject release or threat of release pursuant to the Massachusetts Contingency Plan, 310 CMR 40.0000 (the MCP). For purposes of this notice, the terms and phrases used herein shall have the meaning ascribed to them by the MCP unless the text clearly indicates otherwise.

STATUTORY LIABILITIES

The following is provided to advise you of your statutory liabilities for completing response actions at the subject site. It is a summary of the liability provisions from the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E. Please refer to the statute for a complete description of the liability provisions.

The Department has reason to believe that you (as used in this letter, "you" refers to Patricia Auterio), are a Potentially Responsible Party (a PRP) with liability under M.G.L. c. 21E, § 5, for response action costs. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site from or at which there is or has been a release/threat of release of oil or hazardous material; any person who owned or operated a site at the time hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release/threat of release of such material; and any person who otherwise caused or is legally responsible for a release/threat of release of oil or hazardous material at a site.

This liability is "strict", meaning it is not based on fault, but solely on your status as an owner, operator, generator, transporter or disposer. It is also joint and several, meaning that you may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

The MCP requires responsible parties to take necessary response actions at properties where there is or has been a release or threat of release of oil and/or hazardous material. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, the Department is authorized by M.G.L. c. 21E to

have the work performed by its contractors. By taking such actions, you can avoid liability for response action costs incurred by the Department and its contractors in performing these actions, and any sanctions which may be imposed for failure to perform response actions under the MCP.

You may be liable for up to three (3) times all response action costs incurred by the Department. Response action costs include, without limitation, the cost of direct hours spent by Department employees arranging for response actions or overseeing work performed by persons other than the Department or their contractors, expenses incurred by the Department in support of those direct hours, and payments to the Department's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

The Department may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on all of your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your liability for up to three (3) times all response action costs incurred by the Department, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued thereunder.

IMMEDIATE RESPONSE ACTIONS

The following conditions were identified during an inspection of the subject site conducted by the Department on May 3, 1994. This site inspection revealed two apparent areas where a threat of release of oil/hazardous materials exist. A summary of observations made during the site visit is detailed in the enclosed memorandum. One of the areas where a threat of a release of oil/hazardous materials exists is the area southwest of the manufacturing building where two underground storage tanks, one 2,000-gallon #2 fuel UST and one 5,000-gallon toluene UST, are located (see site map attached to the enclosed memorandum). These two USTs have not been in use since the facility ceased operations in 1992 and would be considered abandoned according to 527 CMR 9.00, Board of Fire Prevention Regulations. Board of Fire Prevention Regulations require that tanks not in use after a six (6) month period be removed. Since it is unclear whether the product from the toluene and fuel oil tanks has been removed, the Department believes that the USTs in their abandoned state pose a continuous threat of a release and should be removed. The second area where a threat of a release of oil/hazardous materials exists is the area east of the manufacturing building where two trailers containing drums with wastewater are parked over a catch basin. Since some of the drums are in poor condition, it is necessary that the drums and their contents

be removed to prevent a release of oil and/or hazardous materials from occurring.

The Department has determined that per the provisions of 310 CMR 40.0412, Immediate Response Actions involving the containment and the removal of these oil/hazardous materials that pose a threat of a release are necessary at the subject site:

Immediate Response Actions (IRAs) are warranted at sites where the Department has determined that immediate or accelerated response actions are necessary to prevent, eliminate, or minimize damage to health, safety, public welfare, or the environment. IRAs may include: assessment of the need to take timely actions to prevent releases from occurring at a site where a threat of release has been identified [310 CMR 40.0414(3)(e)] and removal of the contents of, or removal of, drums, barrels, tanks or other bulk containers which contain or may contain oil and/or hazardous material [310 CMR 40.0414(3)(1)].

You must employ or engage a Licensed Site Professional (LSP) to manage, supervise or actually perform the necessary response actions at the subject site, including IRAs. [You may obtain a list of the names and addresses of these licensed professionals from the Board of Registration of Hazardous Waste Site Cleanup Professionals at (617) 556-1145.]

INTERIM DEADLINES FOR COMPLIANCE WITH THE MCP

Revisions to the Massachusetts Contingency Plan became effective on October 1, 1993. Information available to the Department indicates that all of the response actions necessary to achieve a level of No Significant Risk at the subject site were not taken and/or completed as of October 1, 1993. Therefore, additional response actions must now be conducted in accordance with M.G.L. c. 21E and the revised MCP, 310 CMR 40.0000.

The MCP allows the Department to establish and enforce reasonable Interim Deadlines pursuant to 310 CMR 40.0167 in order to establish timeframes for responsible parties to perform response actions at disposal sites for which notification of a release/threat of release was received prior to October 1, 1993, and for which additional response actions pursuant to the MCP are required after October 1, 1993. In light of this, you are hereby notified that, at a minimum, the necessary response actions at the subject site must be conducted within the following Interim Deadlines:

- (1) Within 60 days of the date of the issuance of this letter, you must submit to the Department, an Immediate Response Action Plan (IRAP), in conformance with the provisions of 310 CMR 40.0424, identifying the steps you plan to take to investigate, assess, monitor, and where feasible, mitigate or abate the conditions that pose a threat of a release (as described on Page 3, under Immediate Response Actions).

- (2) Within 30 days of the date of the issuance of this letter, you must notify the Department in writing acknowledging that you have been notified of and understand your obligation to undertake the response actions at the subject site pursuant to the timeframes established herein and in accordance with 310 CMR 40.0000.

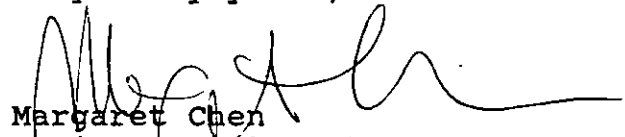
If you fail to voluntarily undertake the response action(s) necessary at the subject site within the Interim Deadline(s) established herein, the Department may perform the such response actions and seek to recover the Department's costs and/or may initiate other appropriate enforcement actions to ensure that such response actions are conducted. The Department's decision to establish one or more Interim Deadlines in accordance with 310 CMR 40.0167 is not subject to M.G.L. c. 30A or any other law governing adjudicatory proceedings.


It is important to note that you must dispose of any Remediation Waste generated at the subject location in accordance with 310 CMR 40.0030 including, without limitation, contaminated soil and/or debris. Any Bill of Lading accompanying such waste must bear the seal and signature of an LSP or, if the response action is performed under the direct supervision of the Department, the signature of an authorized representative of the Department.

The Department encourages parties with liabilities under M.G.L. c. 21E to take prompt action in response to releases and threats of release of oil and/or hazardous material. By taking prompt action, you may significantly lower your assessment and cleanup costs and avoid the imposition of, or reduce the amount of, certain permit and annual compliance fees for response actions payable under 310 CMR 4.00.

If you have any questions relative to this notice, you should contact Margaret Chen at the letterhead address or by telephoning (617) 932-7600. All future communications regarding this release must reference the Release Tracking Number (RTN 3-0168) contained in the subject block of this letter.

Very truly yours,


Margaret Chen
Environmental Analyst


Stephen M. Johnson
Section Chief
Site Management/Permits

Enclosure

MIDDLETON - Adhesive Manufacturer
August 1994, Page 6

cc: (Without Enclosure)

DEP/Boston/Division of Response and Remediation

Ms. Mary Ellen Stanton, US EPA, 60 Westview Street
Lexington, MA 02173

Mr. Ira Singer, Town Administrator, Memorial Hall
48 South Main Street, Middleton, MA 01949

Mr. Leo Cormier, Health Agent, Middleton Board of Health
195 North Main Street, Middleton, MA 01949

Chief Henry Michalski, Middleton Fire Department
4 Lake Street, Middleton, MA 01949

Mr. Robert Aldenberg, Building Inspector, Town of Middleton
195 North Main Street, Middleton, MA 01949

Ms. Cheryl Auterio, P.O. Box 202, North Reading, MA 01864
DEP/NERO/BWSC, Data Entry/File